

# New Regulations Mandate Enhanced Screening of Business Entities Formed in Delaware

DOVER – Regulations promulgated by the Secretary of State and slated to take effect Jan. 1 will require that new business entities formed in Delaware be screened against lists of persons and groups that have been prohibited from doing business in the United States.

[These new “Know Your Customer” rules](#) were crafted to help ensure that bad actors and those who may seek to access Delaware’s business entity registry for nefarious purposes will be prevented from doing so. The rules also require regular crosschecks to ensure that existing Delaware entities associated with newly prohibited parties are flagged and ultimately dissolved.

“Delaware’s reputation as the corporate capital of the world should not be undermined by those who would use our state as a place to create their unscrupulous business entities,” said Secretary of State Jeffrey Bullock. “Combined with the diligent efforts of our business services community, these new regulations will help cut off their access to a legal home in Delaware.”

According to the new regulations, a Delaware registered agent will be required to vet the identity of any potential customer seeking to form a Delaware entity such as a Limited Liability Company (LLC) or a corporation. Next, the agent is required to check that identity information against lists of persons, foreign nationals, groups and entities that have been sanctioned by federal authorities or are otherwise prohibited

from conducting business in the United States. These lists are maintained by the Office of Foreign Assets Control (OFAC), a division of the U.S. Treasury.

In addition, the new regulations mandate that Delaware registered agents check their lists of existing clients, associated contacts and entities against the OFAC lists on a quarterly basis, at minimum. Checks also must be performed whenever client information is transferred from another agent, and whenever an agent receives new contact information from a client.

“Earlier this year, we issued guidelines to our registered agent community outlining our expectations for client vetting and verification, which included OFAC checks and quarterly monitoring. To solidify and strengthen those policies, we brought legislation to the General Assembly and ultimately promulgated the regulations that will take effect in the coming weeks,” said Deputy Secretary of State Kristopher Knight, director of the Division of Corporations. “Throughout the process, Delaware registered agents have been great partners in our shared goal, and I thank them for their support and cooperation.”

For entities not represented by a Delaware registered agent, such as entities formed and maintained by Delaware residents and legal professionals, the Division of Corporations will perform the “Know Your Customer” checks.

To ensure compliance with the new regulations, the Division of Corporations will conduct periodic registered agent audits, as it does for rules already on the books.

Statutory authority to strengthen these regulations as well as associated penalties for noncompliance was granted this year with the passage and signing of House Bill 404, which the Department of State drafted and advanced through the General Assembly. Under the new law, the Division of Corporations also

has greater latitude to refuse to process filings from a registered agent that fails to obey regulations.